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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,205	06/15/2001	JAY H. CONNELLY	042390P11860	8464

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EXAMINER

HUYNH, SON P

ART UNIT PAPER NUMBER

2623

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/882,205

Applicant(s)

CONNELLY, JAY H.

Examiner

Son P. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 43-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 43-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/17/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-49 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues Ellis fails to disclose a technique whereby feedback received from clients is used to refining a list of available content to prioritize an order in which the available content described by content descriptors will be broadcast to the clients (page 8, paragraph 4, page 9, paragraph 2).

In response, this argument is respectfully traversed. Ellis discloses the program guide may provide users with an opportunity to schedule programs for recording by secondary storage device or digital storage device using boolean or natural language expression. Program guide systems in which programs are scheduled for recording are described, for example, in Ellis et al. U.S. patent application serial No. 09/332,244, filed June 11, 1999, which is hereby incorporated by reference herein in its entirety (col. 17, lines 53-65). In U.S patent Ser. No. 09/332,244, the pending selections list of available content prioritizes in an order in which at least a portion of the available content described by the content descriptor (e.g. title "BEVERLY HILLS") will be broadcast and the available content listed in the pending selections will be broadcast according to the future broadcast schedule as prioritized by the refining (for example, BEVERLY HILLS

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at 8:00 pm, APOLLO 13 at 8:30 pm and so on as described in the pending selections list – figure 18f, paragraph 0149). Therefore, Ellis discloses feedback received from clients (e.g. selection of an expression, program schedule to be recorded, etc.) is used to refining a list of available content to prioritize an order (order of pending selections) in which the available content described by content descriptors will be broadcast to the clients.

Applicant further argues Ellis fails to disclose any alternation of the actual broadcast schedule...actual content (page 9, paragraphs 2-3).

In response, the limitation “actual broadcast schedule” or “actual content” is not recited in the claims.

Applicant additionally argues Ellis fails to discloses broadcasting content descriptor that describe content which is merely being consider for “potential inclusion in a future broadcast schedule” (page 9, paragraph 4).

In response, this argument is respectfully traversed. Ellis discloses broadcasting program guide schedule for programs/contents to be broadcast in the future (col. 11, lines 35-47, figure 7). Thus, the “available content being considered for potential inclusion in a future broadcast schedule” is merely interpreted as available content will be broadcast in the future as described by broadcasting content descriptors (since the schedule of available content to be broadcast in the future may be changed/delayed/

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canceled due to weather, channel congestion, performance issues, user does want to view/record the content, etc.).

For the reasons given above, rejections of claims 1-12, 43-49 are analyzed as discussed below.

Claims 13-42 have been canceled.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-12, 43-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al. (US 6,898,762).

Regarding claim 1, Ellis discloses a method, comprising:

broadcasting content descriptors, which describe available content being considered for potential inclusion in a future broadcast schedule, to one or more clients

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(broadcasting content descriptors such as category, channel, etc. (figure 5) which describes available content being considered for inclusion in a future broadcast schedule(i.e. schedule at 10:30 pm-figure 6), to one or more television equipments 22 (see including, but are not limited to, figures 2a-5; col. 5, lines 24-62);

receiving feedback from the one or more clients regarding the content descriptors, the feedback being an indication from the one or more clients of the relative desirability of the available content described by the content descriptors (television distribution facility comprises program guide server receives user selection of particular feature in menu such as movies, user selection of criteria, user expression, user activities, selection programs scheduled for recording, etc. from the user television equipments indicating user desirability of the available content described by the content descriptor – see including, but are not limited to, col. 10, line 7-col. 11, line 13; col. 12, line 32-col. 13, line 26; col. 15, lines 1-27, col. 17, lines 53-65);

refining a list of available content in response to the feedback to create the future broadcast schedule (the television distribution facility comprises program guide server searches the database in response to the user selection to create a program listing screen associated with user selection - for example, the user one to displays a list of programs in the future, the user select the right arrow – see including, but are not limited to, col. 10, line 7-col. 11, line 13; col. 12, line 32-col. 13, line 26; col. 15, lines 1-27, figures 5- 8c), wherein refining the list of available content prioritizes an order in which at least a portion of the available content described by the content descriptors will be broadcast (e.g. the selected list of available content prioritizes in order of time in which

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at least a portion of the available content (e.g., content title, a clip, etc.) will be broadcast (figures 7, 18-19, col. 17, lines 53-65 and U.S. application Ser. No. 2003/0149988, figure 18f, paragraph 0149) ; and

broadcasting content listed in the refined list of available content, according to the future broadcast schedule as prioritized by the refining, to the one or more clients (broadcasting selected content/program listed in the selected list, according to the future broadcast schedule, to one or more television equipment so the selected/sorted content is received at the television equipment for recording or watching – see including, but are not limited to, col. 17, lines 37-65; col. 23, lines 6-14 and U.S application Ser. No. 2003/0149988, figure 18f, paragraph 0149).

Regarding claim 2, Ellis further discloses repeating operations of broadcasting further descriptive content, which further describes the available content listed in the refined list of available content, and receiving corresponding additional feedback to further refine the list of available content in response to additional feedback (broadcasting further descriptive content such as identifier, air time, etc. of the movie according to the user preference, user selection, user expression, etc. and receiving user selection for additional information of the movie to further refine/sort the list of movie in response to the selection for additional information – see including, but is not limited to, col. 20, lines 4-58).

Regarding claim 3, Ellis further discloses the further descriptive content (e.g. additional information, content title, actor/actress name, air time, etc. – figures 6, 7, 19-20c) is more descriptive of the available content than previous broadcast descriptive content (e.g. category, type, etc. in main menu, figure 5).

Regarding claim 4, Ellis discloses a method, comprising:

broadcasting content descriptors, which describe available content being considered for potential inclusion in a future broadcast schedule, to a plurality of clients (broadcasting content descriptors such as category, channel, etc. (figure 5) which describes available content being considered for inclusion in a future broadcast schedule(i.e. schedule at 10:30 pm-figure 6), to a plurality of television equipments 22 (see including, but are not limited to, figures 2a-5; col. 5, lines 24-62);

receiving first feedback from the plurality of clients regarding the content descriptors, the first feedback being an indication from the plurality of clients of the relative desirability of the available content described by the content descriptors (television distribution facility comprises program guide server receives user selection of particular feature in menu such as movies, user selection of criteria, user expression, user activities, etc. from the user television equipments indicating user desirability of the available content described by the content descriptor – see including, but are not limited to, col. 10, line 7-col. 11, line 13; col. 12, line 32-col. 13, line 26; col. 15, lines 1-27);

sorting available content in response to the first feedback from the plurality of clients (the television distribution facility comprises program guide server searches the

database in response to the user selection from the plurality of television equipments 22— see including, but are not limited to, col. 10, line 7-col. 11, line 13; col. 12, line 32-col. 13, line 26; col. 15, lines 1-27, figures 5- 8c);

broadcasting further descriptive content related to at least a first portion of the available content as sorted to the plurality of client (broadcasting descriptive content such as program title, actor/actress, channel, airtime, additional information, etc. related to user selection of particular category, type, etc. — see including, but are not limited to, figures 5-7, col. 10, line 18-col. 11, line 13; col. 12, line 32-col. 13, line 27; col. 15, lines 1-28; col. 20, lines 1-58);

receiving next feedback from the plurality of clients regarding the further descriptive content (e.g. receiving user selection for additional information from the plurality of user television equipments —col. 20, lines 1-58);

sorting the available content in response to the next feedback from the plurality of clients to create the future broadcast schedule (search for available content for additional content such as program title, airtime, etc., in response to user selection from plurality of television equipments, to create the future broadcast schedule — see figures 5-7, 19-20c; col. 20, lines 1-58), wherein sorting the available content prioritizes an order in which at least a portion of the available content described by the content descriptors will be broadcast (e.g. the selected list of available content prioritizes in order of time in which at least a portion of the available content (e.g., content title, a clip, etc.) will be broadcast (figures 7, 18-19, col. 17, lines 53-65 and U.S. application Ser. No. 2003/0149988, figure 18f, paragraph 0149);

broadcasting at least a second portion of the available content to the plurality of clients in an order responsive to the next feedback from the plurality of clients as prioritized by the sorting and according to the future broadcast schedule (broadcasting selected content/program listed in the selected list as prioritized by the selected list, according to the future broadcast schedule, to one or more television equipment so the selected/sorted content is received at the television equipment for recording or watching – see including, but are not limited to, col. 17, lines 37-65; col. 23, lines 6-14; U.S. application Ser. No. 2003/0149988, figure 18f, paragraph 0149).

Regarding claim 5, Ellis further discloses repeating:

broadcasting further descriptive content (e.g. additional information) related to a narrower portion of the available content as sorted to the plurality of clients (col. 20, lines 1-58);

receiving next feedback from the plurality of clients regarding the further descriptive content (receiving user selection of additional information – col. 20, lines 1-58).

Regarding claim 6, Ellis further discloses the further descriptive content less expensive to the broadcast to the clients than the available content (since only a portion of the content is broadcast – col. 20, lines 1-58, figure 20c).

Regarding claim 7, the claimed feature “the sorting of the available content in response to the next feedback comprises assigning a higher weight to the next feedback than the first feedback” is broadly interpreted as searching/sorting content more related to the second selection (e.g. for movie titles, channel airs, etc.) than the first selection (e.g. a category, type, etc. – figures 5-7, 19-20c).

Regarding claim 8, Ellis further discloses broadcasting of second portion (additional information, program title, etc. – col. 20, lines 1-58, figures 5-7, 19-20c) in an order further responsive to the first feedback from the plurality of clients (in an order responsive to the selection of category, expression, etc. – col. 10, line 5-col. 11, line 12; col. 12, line 32-col. 13, line 26, col. 15, lines 1-26, col. 20, lines 1-58, figures 5-7, 19-20c).

Regarding claim 9, Ellis further discloses broadcasting further descriptive content comprises broadcasting partial available content to the plurality of clients (e.g. text and graphics advertising pay per view programs or other programs – col. 10, lines 18-20; or preview of pay per view as indicated in figure 26, paragraphs 0129, 0137 of US 2005/0204387 which is incorporated by reference in its entirety – see col. 10, lines 40-56).

Regarding claim 10, Ellis further discloses the program guide client may also tact when users order pay per view programs, record program (col. 19, lines 10-33). Inherently,

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the descriptive content broadcast to the plurality clients (television equipments) is kept track, wherein the broadcast of at least a second portion of the available content comprises broadcasting a portion of a remaining portion of the partial available content to the plurality of clients when the clients select, order the content so that the client can watch or record the remaining portion of a program such as pay per view program.

Regarding claim 11, Ellis further discloses the available content comprises at least one of video information, graphical information, or textual information (figures 5-7, 20c, col. 10, lines 18-27).

Regarding claim 12, Ellis further discloses the further descriptive content comprises at least one of a graphical clip, a textual description (figure 20c).

Regarding claim 43, the limitations of the apparatus as claimed correspond to the limitations of the method as claimed in claim 4, and are analyzed as discussed with respect to the rejection of claim 4. Ellis further discloses the apparatus (user television equipment 22 – figures 3-4) comprising:

- a processor (processing circuitry) having circuitry to execute instructions (figure 2a);

- a communication interface (i.e. program distribution equipment or interface to user television equipment) coupled to the processor (processing circuitry), the communication interface coupled to receive communication from one or more clients

(i.e. receiving communication from one or more television equipments – see including, but are not limited to, figure 2a, col. 5, line 25-col. 6, line 29);

a storage device (storage device 56- figure 2a, col. 5, line 65-col. 6, line 29) coupled to the processor, having instructions stored therein, which when executed cause the apparatus to perform functions as discussed in claim 4.

Regarding claim 44 and 46, the additional limitations of the apparatus as claimed correspond to the additional limitations of the method as claimed in claims 8 and 5, and are analyzed as discussed with respect to the rejection of claims 8 and 5.

Regarding claim 45, Ellis further discloses the available content includes the further descriptive content (e.g. program title, program description, additional information, etc. – col. 20, lines 1-58).

Regarding claim 47, the limitations of the system that correspond to the limitation of the method as claimed in claim 4 are analyzed as discussed with respect to the rejection of claim 44. Ellis further discloses the system comprises a server (e.g. television distribution facility 16 – figure 2a) and one or more clients (user television equipment 22 – figure 2a) coupled to the server.

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Regarding claims 48-49, the additional limitations of the system as claimed correspond to the additional limitations of the method as claimed in claims 2-3, and are analyzed as discussed with respect to the rejection of claims 2-3.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nijima et al. (US 5,903,314) discloses electrical program guide system and method.

Arai et al. (US 6,751,401) discloses method and apparatus for producing program information and receiving apparatus for processing the information in a broadcast system.

Ellis et al. (US 2002/0174430) discloses systems and methods for interactive program guides with personal video recording features.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Son P. Huynh

September 22, 2006


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